

MINUTES
EVANS CITY COUNCIL
Regular Meeting
January 17, 2012 - 7:30 P.M.

CALL TO ORDER

Mayor Achziger called the meeting to order at 7:38 p.m.

PLEDGE

ROLL CALL:

Present: Mayor Achziger, Mayor Pro Tem Morris, Councilmembers Brown, Burmont, Neibauer, Schaffer and Wells

AUDIENCE PARTICIPATION:

There was no audience participation.

APPROVAL OF AGENDA:

Councilmember Schaffer made motion, seconded by Councilmember Brown to approve the agenda as presented. Motion passed with all voting in favor thereof.

CONSENT AGENDA:

- A. Approval of Minutes of the Special and Regular Meetings of December 20, 2011
- B. Resolution No. 01-2012 - Designation of Public Place for the posting of Notices of Public Meetings
- C. Resolution No. 02-2012 – Authorizing the conduct of a mail ballot election for the Regular Municipal Election scheduled for April 3, 2012
- D. Ordinance No. 532-11 - Adds Chapter 18.25 - Site Plan Regulations to the Evans Municipal Code (2nd Rd)
- E. Resolution No. 03-2012 - Approving an Intergovernmental Agreement with the Weld County for payment of bonus amounts concerning the oil and gas employees residing within the City boundaries
- F. Authorize Mayor's Signature on Lease Agreement for the Jack Meakins Community Resource Center

Councilmember Burmont abstained from voting on the approval of minutes due to his absence at the December meeting.

Mayor Pro Tem Morris made motion, seconded by Councilmember Schaffer to approve the Consent Agenda as presented. Motion passed with all voting in favor thereof.

NEW BUSINESS:

- A. Resolution No. 04-2012 - Authorizing the City Manager or his designee to designate the assigned portion of all governmental fund balances for the City Financial Statements for 2011 and subsequent years

Jessica Gonifas, Finance Director, reported the following:

The City's Financial Statements are prepared in accordance with standards of accounting and financial reporting for U.S., state, and local governments established by the Governmental Accounting Standards Board (GASB). In February, 2009, GASB issued Statement 54, Fund Balance Reporting and Governmental Fund Type Definitions (Statement 54), which must be implemented by governmental entities for financial statements issued for fiscal years ending after June 30, 2011.

Statement 54 changes the required method for reporting the fund balance within each of the Reported Funds from two general categories of funds designated as "reserved" and "unreserved", to an allocation of one of the following fund components:

Non-spendable—amounts that cannot be spent either because they are in non-spendable form or because they are legally or contractually required to be maintained intact.

Restricted—amounts that can be spent only for specific purposes because of constitutional provisions, charter requirements or enabling legislation or because of constraints that are externally imposed by creditors, grantors, contributors, or the laws or regulations of other governments.

Committed—amounts that can be used only for specific purposes determined by a formal action of City Council. City Council is the highest level of decision making authority for the City. Commitments may be established, modified, or rescinded only through ordinances or resolutions approved by City Council.

Assigned—amounts that do not meet the criteria to be classified as restricted or committed but that are intended to be used or specific purposes.

Unassigned—all other spendable amounts. With regards to the fund component of Assigned fund balance, adoption of this resolution will give the City Manager (or the City Manager's Designee) the authority to designate the Assigned fund balance for each Governmental Fund (if necessary) based on the intended use of such resources. This action will allow staff to assign fund balance based on specific operational needs.

Councilmember Burmont asked what defines the intended use in this resolution. Ms. Gonifas stated that this resolution would allow the City Manager to determine the intended use.

Councilmember Burmont indicated that City Council is ultimately responsible for the financial affairs of the City and that is why an independent auditor is hired to make sure the reporting is accordance with the general accepted accounting principles. He would like to see the resolution be amended where City Council delegates the authority to the City Manager to be consistent with City Council's recent budget and long range financial plans.

Councilmember Burmont made motion, seconded by Councilmember Schaffer to adopt Resolution No. 04-2012 subject to adding language that ties the delegation of authority to City Council's recently adopted budget and financial plan. Motion passed with all voting in favor thereof.

B. Resolution No. 05-2012 - Approving Memorandum of Understanding between the Colorado Department of Transportation and City of Evans clarifying the use of SH 85 Frontage Road

Earl Smith, Director of Public Works, reported the following:

This Memorandum of Understanding (MOU) formalizes an agreement between CDoT and the City concerning right-of-way for the West Service Road along the west side of US 85, north of 42nd Street. By entering into the MOU the land exchange previously approved by City Council can be completed.

Current State law prohibits a municipality who has received abandoned State right-of-way (R.O.W.) from using that R.O.W. for any purpose not related to transportation. If an abandoned right-of-way ceases to be used for transportation purposes it reverts back to CDoT. This restriction prohibited the exchange of property previously approved by Council that would allow construction of Burlington Avenue north of 42nd Street.

The MOU is intended to uphold the intent of the State requirements by ensuring the newly created West Service Road is always used for transportation purposes or it will revert back to CDoT. If for any reason in the future the City chooses to not use the realigned R.O.W. for a roadway or other transportation related purpose it will revert to the State.

Councilmember Wells made motion, seconded by Councilmember Brown to adopt Resolution No. 05-2012. Motion passed with all voting in favor thereof.

REPORTS:

The City Manager referred City Council to the Monitoring Report.

The City Attorney reported on the following:

Outside water usage rates: As a follow-up from the December 20 meeting, the City Attorney reported that he represented another municipality on another case about 10 years ago that was similar in nature. In that case it was stated that a legislative body, such as City Council, can never delegate a legislative authority to another body, even in a contract that limits rate setting measures. The rate setting is a legislative authority and that's an authority City Council cannot delegate. There are many cases that support and follow a 1997 Colorado Supreme Court case where it was ruled that the rating setting authority is legislative in nature and cannot be delegated. The contract provision in the City's agreement regarding rate setting is invalid because it's an improper delegation of legislative authority. City Council can raise those rates even though there is a \$1.00 limitation referenced in the contract because of this case.

AUDIENCE PARTICIPATION:

There was no audience participation.

ADJOURNMENT TO EXECUTIVE SESSION:

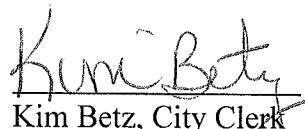
Councilmember Schaffer made motion, seconded by Mayor Pro Tem Morris to adjourn to an Executive Session for the discussion of a personnel matter pursuant to CRS 24-6-402(4)(f). Motion passed with all voting in favor thereof.

City Council adjourned into Executive Session at 8:02 pm

City Council came out of Executive at 8:31

ADJOURNMENT:

Mayor Achziger adjourned the meeting at 8:33 p.m.


Kim Betz, City Clerk